

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

CLAUDIA LESTER

CIVIL ACTION 1-04-1335

VERSUS

U.S. DISTRICT JUDGE DEE D. DRELL

JO ANNE BARNHART,
Commissioner

U.S. MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION ON ATTORNEY FEES

In this case, plaintiff asks the court for an award of attorney's fees under the Equal Access to Justice Act, 28 U.S.C. 2412(d), hereinafter "EAJA" [Doc. # 13]. The government's position in this case was not substantially justified and the government does not object to the award of attorney fees. The undersigned ordered that the case be remanded under sentence four of 42 U.S.C. 405((g) which requires entry of a judgment.

The EAJA provides in relevant part that the amount of fees awarded "shall be based upon prevailing market rates for the kind and quality of the services furnished, except that . . . attorney fees shall not be awarded in excess of \$125.00 per hour unless the court determines that an increase in the cost of living . . . justifies a higher fee." §2412(d)(A)(ii). Plaintiff asks the court to award \$125 per hour for a period of 14.25 hours together with \$150 in costs, for a total of \$1,931.25.

A review of plaintiff's attorney's time and expenses shows that the hours appear to be reasonable and necessary.

Conclusion

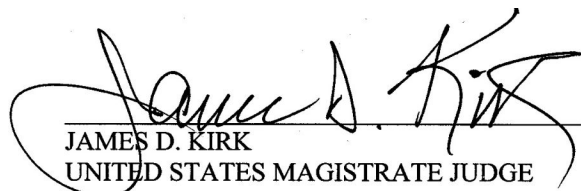
For the foregoing reasons, IT IS RECOMMENDED that the Judgment be entered affirming the Order of Remand a and that attorney's fees in the amount of \$1781.25 and costs in the amount of \$150.00 be awarded and ordered paid.

OBJECTIONS

Under the provisions of 28 U.S.C. § 636(b)(1)(C) and Fed.R.Civ.P. 72(b), the parties have ten (10) business days from service of this Report and Recommendation to file specific, written objections with the clerk of court. A party may respond to another party's objections within ten (10) days after being served with a copy thereof. A courtesy copy of any objection or response or request for extension of time shall be furnished to the district judge at the time of filing. Timely objections will be considered by the district judge before he makes his final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT UPON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UN-OBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.

THUS DONE AND SIGNED in chambers, in Alexandria, Louisiana, on this the 15th day of August 2005.


JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE

